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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/729,989	12/06/2000	Kentaro Nakada	HIG05 001	7372
7590	09/13/2005		EXAMINER	
DUANE MORRIS LLP			NATNAEL, PAULOS M	
1667 K STREET, N.W.			ART UNIT	PAPER NUMBER
SUITE 700				
WASHINGTON, DC 20006			2614	

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/729,989	NAKADA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Paulos M. Natnael	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 August 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 6-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 6-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

1. The final rejection mailed May 3, 2005 has been withdrawn in order to correct some errors. In its place the following Final rejection is presented.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen et al., U.S. 6,076,094.

Considering claim 6, Cohen et al. discloses a method for broadcasting data to a television set using a carrier signal such as a television or commercial radio carrier signal, constructing a data stream from individual first record of a transmission database, each first record comprising one of a selection of formats, at least one of the first records comprising executable program code or an object, broadcasting the data stream within the carrier signal, providing a user with a user's device for receiving and decoding the data stream, the user's device receiving and decoding the data stream to a user's database, the user's database having second records comprising at least some

of the first records, the second records comprising one of a selection of formats and at least one record comprising executable program code or an object broadcast from the first records determining the format a second record using a control program running, when required, the executable program code, and generating a display on the television consistent with the format determined by the control program. (see Abstract)

Cohen teaches several embodiments including one that is illustrated in Fig.4 where the broadcasting station 111 transmits television signals (which comprise, as well known in the art, video, audio as well as other secondary or auxiliary data) In particular, Cohen discloses that "In the context of TV multimedia which receives forward directional information from a high bandwidth broadcast (point to multipoint) channel carrying RDS, TV packet 31 or their digital domain equivalents (MPEG, MPEG2 and Orthogonal frequency division multiplex broadcast data packets), for interactivity a point to point return link is needed...With reference to FIG. 4 a multimedia TV apparatus 110 comprises a TV station 111 in forward communication with a multimedia TV set 113 by way of TV signal 112. TV signal 112 is communicated via aerial 114 to a tuner 127 of a multimedia TV set which is adapted to be tuned to a TV signal of a particular television channel and to deliver video and audio information derived from that channel. The multimedia TV apparatus 110 additionally includes a multimedia microprocessor 123 which is adapted to derive data delivered via TV signal 112 from database 118 and to instruct the generation of a database visual information signal 117 based on that data for display on display 116. (see Col. 11, lines 38 through col. 12, lines 22)  
Furthermore, Cohen teaches that the channel field in the packet header can be used to

allow several objects to be transmitted simultaneously on the same service, by assigning each to a separate channel. Col 19, lines 15-17 and lines 48-51. And that the data stream comprises one or more data objects represented by information encoded in a first object and packet based protocol ... the information is broadcast in a second packet based protocol. col. 22, lines 16-20. [emphasis added by examiner]

Cohen does not specifically disclose whether an executable code was used to mix the signals at the server or transmitting station.

However, it would have been obvious to the skilled in the art that some sort of a computer program would have been used to mix all the video and audio components before broadcasting them since Cohen discloses the central station 11 uses server (computer) to construct a data stream from individual first record of a transmission database, at least one of the first records comprising executable program code or an object. Accordingly, it would have been obvious to the skilled in the art at the time the invention was made to implement the claimed mixing the sound signals of the plural programs using a computer executable code of the Cohen reference.

Regarding claim 7, transmitting executable program in advance is inherent, because otherwise the decoder (in the TV receiver) may not be able to decode the signal. (see also Abstract of the disclosure)

As to claim 8, Cohen discloses the transmission of digital information. see col. 4, line 13+.

Regarding claim 9, see disclosure on col. 11, lines 41-49.

As to claim 10, see the disclosure on col. 19, lines 15-17 which discusses separate channels and which doesn't preclude using separate broadcasting bands.

### ***Response to Arguments***

4. Applicant's arguments filed 8/2/05 have been fully considered but they are not persuasive. The applicant argues that 'Cohen requires a separate channel for each program, rather than images and sound signals for plural television programs one channel. There is also no disclosure of "mixing the sound signals of the plural entertainment programs using a computer executable code" and "using the computer executable program to provide the sound corresponding to the selected one of the plural entertainment programs."

The examiner submits that contrary to the applicant's assertion, col. 19, lines 48-51 of Cohen does not require separate channels be used. The passage reads: "The optional channel field in the packet header can be used to allow several objects to be transmitted simultaneously on the same service, by assigning each to a separate channel." However, this is not a process that **must** be used. As the word implies clearly, Cohen simply states a possibility, an **optional** approach. Thus, the arguments are not persuasive.

***Conclusion***

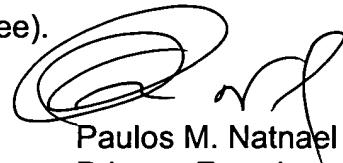
5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paulos M. Natnael whose telephone number is (571) 272-7354. The examiner can normally be reached on 10:00am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571)272-7353. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Paulos M. Natnael  
Primary Examiner  
Art Unit 2614

PMN  
August 8, 2005